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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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Russell D. Orkin
WEBB ZIESENHEIM LOGSDON ORKIN & HANSON P.C.
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT PAPER NUMBER

3727

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/789,464

Applicant(s)

ARSHINOFF, STEPHEN H.

Examiner

Robin A. Hylton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1-6 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the claims are rejected for the following reasons:

There is no description in the claims for when and/or how the radial beads predispose strain creases to form or when the strain creases form.

Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Oblak (US 5,865,449).

Oblak teaches a sealed container comprising:

a container body **12** having an open top; and

a removable lid **10** covering the open top of said container body and being crimped to said container body about the periphery of said lid, said lid comprising a plurality of generally evenly spaced, elongate radial beads **46** extending from *adjacent* the center of said lid to adjacent the perimeter of said lid, said radial beads predisposing strain creases to form in an even pattern coincident with said radial beads, wherein each bead is a channel depression.

4. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Otsuka et al (US 5,829,623).

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Otsuka teaches a sealed container comprising:

a container body (unnumbered) having an open top; and

a removable lid 1 covering the open top of said container body and being crimped to said container body about the periphery of said lid, said lid comprising a plurality of generally evenly spaced, elongate radial beads 17 extending from *adjacent* the center of said lid to adjacent the perimeter of said lid, said radial beads predisposing strain creases to form in an even pattern coincident with said radial beads, wherein each bead is a channel depression.

To the degree set forth, the lid of Otsuka is "removable" from the can by any means including cutting.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oblak.

Wherein it can be argued Oblak teaches the claimed lid except is silent regarding stamping of the beads, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the lid including the beads by stamping since the examiner takes Official notice that it is well established in the closure art to form a metal lid by a stamping operation.

Response to Arguments

7. Applicant's arguments filed May 24, 2006 have been fully considered but they are not persuasive. Applicant argues the lid of Otsuka is 1) not removable and 2) the channels are not adjacent the center of the lid.

The term "removable" does not provide structure to the lid. It only requires that the lid be capable of removal from an associated container. The lid of Otsuka is removable from the container by a variety of means including uncrimping and cutting. Thus, Otsuka structurally meets the claimed limitation.

The term "adjacent" has not been defined in such a manner to narrow, or limit, the spacing from the center of the lid. The channels 17 of Otsuka extend "from *adjacent* the center of said lid to adjacent the perimeter of said lid" as set forth in claims 1 and 4.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the

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references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

11. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

12. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

Signature _____

Date _____

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner

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can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

RAH
August 18, 2006



Robin A. Hylton
Primary Examiner
GAU 3727